



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2018-0764; FRL-9989-45-Region 3]

#### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County Reasonable Available Control Technology for the 2008 Ozone National Ambient Air Quality Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD) for the purpose of satisfying the volatile organic compound (VOC) reasonably available control technology (RACT) requirements for source categories covered by control technique guidelines (CTGs) under the 2008 8-hour ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2018-0764 at <http://www.regulations.gov>, or via email to [spielberger.susan@epa.gov](mailto:spielberger.susan@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of

submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Megan Goold, (215) 814-2027, or by e-mail at [goold.megan@epa.gov](mailto:goold.megan@epa.gov).

**SUPPLEMENTARY INFORMATION:** On July 24, 2018, PADEP submitted, on behalf of ACHD, a SIP revision addressing the VOC CTG RACT requirements set forth by the CAA for the 2008 8-hour ozone NAAQS for Allegheny County (the 2018 VOC CTG RACT Submission for Allegheny County).

## **I. Background**

### **A. General**

Ozone is formed in the atmosphere by photochemical reactions between VOCs and oxides of nitrogen (NO<sub>x</sub>) in the presence of sunlight. In order to reduce ozone concentrations, the CAA requires control of VOC and NO<sub>x</sub> emission sources to achieve emission reductions in moderate

or more serious ozone nonattainment areas. Among effective control measures, RACT controls significantly reduce VOC and NO<sub>x</sub> emissions from major stationary sources.

RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.<sup>1</sup> CAA section 172(c)(1) provides that SIPs for nonattainment areas must include reasonably available control measures (RACM) for attainment of the NAAQS, including emissions reductions from existing sources through adoption of RACT. A major source in a nonattainment area is defined as any stationary source that emits or has the potential to emit NO<sub>x</sub> or VOC emissions above a certain applicability threshold that is based on the ozone nonattainment classification of the area: Marginal, Moderate, Serious, or Severe. *See* “major stationary source” in CAA sections 182(b), 184(b) and 302. CAA sections 182(b)(2) and 182(f)(1) of the CAA require states with moderate (or worse) ozone nonattainment areas to implement RACT controls on all stationary sources and source categories covered by a CTG document issued by EPA and on all major sources of VOC and NO<sub>x</sub> emissions located in the area. EPA’s CTGs establish presumptive RACT control requirements for various VOC source categories. The CTGs typically identify a particular control level that EPA recommends as being RACT. In some cases, EPA has issued Alternative Control Techniques guidelines (ACTs) primarily for NO<sub>x</sub> source categories, which in contrast to the CTGs, only present a range for possible control options but do not identify any particular option as the presumptive norm for what is RACT. CAA section 183(c) requires EPA to revise and update CTGs and ACTs as the Administrator determines necessary. EPA issued eleven new CTGs from 2006 through 2008. A

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<sup>1</sup> *See* December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, “Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas.” *See also* 44 FR 53761, 53762 (September 17, 1979).

list of CTGs issued by EPA can be found at <https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques>. States are required to implement RACT for the source categories covered by CTGs through the SIP. Source categories that are not covered by the CTGs are termed non-CTG sources (non-CTG sources are not covered by this SIP revision).

CAA section 184(a) of the CAA established a single ozone transport region (OTR), comprising all or part of 12 eastern states and the District of Columbia.<sup>2</sup> The entire Commonwealth of Pennsylvania is part of the OTR and, therefore, must comply with the RACT requirements in CAA section 184(b)(1)(B) and (2). Specifically, section 184(b)(1)(B) requires the implementation of RACT in OTR states with respect to all sources of VOC covered by a CTG. Additionally, section 184(b)(2) states that any stationary source with the potential to emit 50 tons per year (tpy) of VOCs shall be considered a major source and requires the implementation of major stationary source requirements in the OTR states as if the area were a moderate nonattainment area. A major source in a nonattainment area is defined as any stationary source that emits or has the potential to emit NO<sub>x</sub> or VOC emissions above a certain applicability threshold that is based on the ozone nonattainment classification of the area: Marginal, Moderate, Serious, or Severe. *See* “major stationary source” in CAA sections 182(b) and 184(b).

## **B. Allegheny County, Pennsylvania’s Ozone RACT History**

Allegheny County, Pennsylvania has been subject to the CAA RACT requirements because of previous ozone nonattainment designations. The Pittsburgh-Beaver Area (which included Allegheny County) was designated as a moderate 1-hour ozone nonattainment area. Allegheny

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<sup>2</sup> Only a portion of the Commonwealth of Virginia is included in the OTR.

County has implemented numerous RACT controls throughout the County to meet the CAA's RACT requirements under the 1-hour ozone standard.

Under the 1997 8-hour ozone NAAQS, the Pittsburgh-Beaver Valley area (which included Allegheny County) was designated as a moderate nonattainment area. As a result, Allegheny County continued to be subject to the CAA RACT requirements. *See* 69 FR 23858, 23931 (April 30, 2004). Allegheny County revised and promulgated its RACT regulations and demonstrated that it complied with the 1997 CAA RACT requirements in a SIP revision approved by EPA on June 10, 2013 (78 FR 34584).

Under CAA section 109(d), EPA is required to periodically review and promulgate, as necessary, revisions to the NAAQS to continue to protect human health and the environment. On March 27, 2008, EPA revised the 1997 8-hour ozone standard by lowering the 8-hour standard to 0.075 ppm (73 FR 16436). On May 21, 2012, EPA finalized attainment/nonattainment designations for the 2008 8-hour ozone NAAQS (77 FR 30087). Under the 2008 8-hour ozone standard, EPA designated 17 counties in Pennsylvania as marginal nonattainment including Allegheny County. The entire Commonwealth of Pennsylvania is in the OTR, and pursuant to CAA section 184(b)(1)(B), it is required to address the CAA RACT requirements by submitting to EPA a SIP revision that demonstrates how it meets RACT requirements under the revised 2008 ozone standard. Pennsylvania is required to implement RACT for the 2008 ozone NAAQS on all VOC sources covered by a CTG issued by EPA, *see* CAA sections 182(b)(2)(A), (B), 184(b)(1)(B), as well as all other major stationary sources located within the state boundaries, *see* CAA section 182(b)(2)(C).

### **C. EPA Guidance and Requirements**

EPA has provided more substantive RACT requirements through final implementation rules for each ozone NAAQS, as well as guidance. On March 6, 2015, EPA issued its final rule for implementing the 2008 8-hour ozone NAAQS (the 2008 Ozone Implementation Rule). *See* 80 FR 12264. This rule addressed, among other things, control and planning obligations as they apply to nonattainment areas under the 2008 8-hour ozone NAAQS, including RACT and RACM. In this rule, EPA specifically required that states meet the RACT requirements either (1) through a certification that previously adopted RACT controls in their SIP revisions approved by EPA under a prior ozone NAAQS continue to represent adequate RACT control levels for attainment of the 2008 8-hour ozone NAAQS, or (2) through the adoption of new or more stringent regulations or controls that represent RACT control levels. A certification must be accompanied by appropriate supporting information such as consideration of information received during the public comment period and consideration of new data. Adoption of new RACT regulations will occur when states have new stationary sources not covered by existing RACT regulations, or when new data or technical information indicates that a previously adopted RACT measure does not represent a newly available RACT control level. Additionally, states are required to submit a negative declaration if there are no CTG sources of VOC emissions within the nonattainment area in lieu of, or in addition to, a certification.

## **II. Summary of SIP Revision**

On July 24, 2018, PADEP submitted a SIP revision for Allegheny County to address the VOC CTG RACT requirements set forth by the CAA for the 2008 8-hour ozone NAAQS (the 2018 VOC CTG RACT Submission for Allegheny County). Specifically, the 2018 VOC CTG RACT Submission for Allegheny County includes: (1) a certification that for certain categories of sources, previously-adopted VOC RACT controls in the Allegheny County portion of

Pennsylvania's SIP that were approved by EPA under the 1979 1-hour and 1997 8-hour ozone NAAQS continue to be based on the currently available technically and economically feasible controls, and continue to represent RACT for implementation of the 2008 8-hour ozone NAAQS; and (2) a negative declaration that certain CTG sources of VOC do not exist in Allegheny County, PA. This SIP revision does not cover non-CTG sources in Allegheny County. PADEP will address RACT for major sources of NO<sub>x</sub> and for major non-CTG VOC sources for Allegheny County in another SIP submission.

Allegheny County's Regulations and Statutes, under Allegheny County Article XXI 2105.10, 2105.11, 2105.12, 2105.13, 2105.15, 2105.16, 2105.19, 2105.70, 2105.71, 2105.72., 2105.74, 2105.76, 2105.77, 2105.78, 2105.79, 2105.80, 2105.81, 2105.82, 2105.83, 2015.84, 2105.85, and 2105.86 contain the VOC CTG RACT controls that were implemented and approved into Pennsylvania's SIP under the 1-hour and 1997 8-hour ozone NAAQS. PADEP is certifying that these regulations, all previously approved by EPA into the SIP, continue to meet the RACT requirements for the 2008 8-hour ozone NAAQS for CTG-covered sources of VOCs in Allegheny County, PA. PADEP also submitted a negative declaration for the CTGs that have not been adopted due to no affected facilities in Allegheny County. More detailed information on these provisions as well as a detailed summary of EPA's review can be found in the Technical Support Document (TSD) for this action which is available on line at [www.regulations.gov](http://www.regulations.gov), Docket number EPA-R03-OAR-2018-0764.

### **III. Proposed Action**

EPA has reviewed Pennsylvania's 2018 VOC CTG RACT Submission for Allegheny County and is proposing to approve Pennsylvania's SIP revision to the Allegheny County portion of the

SIP on the basis that Allegheny County, PA has met the VOC RACT requirements for all sources of CTGs (issued prior to July 20, 2014) for the 2008 8-hour ozone NAAQS as set forth by CAA sections 182(b) and 184(b)(2). EPA is proposing to find that Pennsylvania's SIP revision satisfies the 2008 8-hour ozone NAAQS VOC RACT requirements for CTGs for Allegheny County, PA through (1) certification that previously adopted RACT controls in the Allegheny County portion of the Pennsylvania SIP that were approved by EPA under the 1979 1-hour ozone and 1997 8-hour ozone NAAQS continue to be based on the currently available technically and economically feasible controls, and that they continue to represent RACT; and (2) a negative declaration demonstrating that no facilities exist in Allegheny County for certain applicable VOC CTG categories.

EPA is proposing to find that Pennsylvania's 2018 VOC CTG RACT Submission for Allegheny County demonstrates that Allegheny County has adopted air pollution control strategies that represent RACT for the purposes of compliance with the 2008 8-hour ozone standard for all stationary sources of VOCs covered by a CTG issued prior to July 20, 2014. EPA is soliciting public comments on the issues discussed in this document relevant to VOC CTG RACT requirements for the Allegheny County portion of the Pennsylvania SIP for the 2008 ozone NAAQS. These comments will be considered before taking final action.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, Pennsylvania's 2018 VOC CTG RACT submission for Allegheny County does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 et seq

Dated: January 30, 2019.

Cecil Rodrigues,  
Acting Regional Administrator,  
Region III.

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